

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ARCH SPECIALTY INSURANCE
COMPANY,

Plaintiff,

v.

GALAFORO CONSTRUCTION, LLC,

Defendant.

Civil Action No. 20-03412 (SRC)

ORDER

CHESLER, District Judge

IT APPEARING that Plaintiff Arch Specialty Insurance Company (“Arch” or “Plaintiff”) initiated this action by filing a Complaint in this Court on March 30, 2020; and it further

APPEARING that, after Defendant Galaforo Construction, LLC (“Galaforo” or “Defendant”) failed to file an answer or motion in response, Plaintiff filed a request for an entry of default, which the Clerk of Court entered; and it further

APPEARING that Plaintiff subsequently filed a motion for default judgment [ECF 8]; and it further

APPEARING that this Court has since reviewed the Complaint sua sponte as an exercise of its independent obligation to satisfy itself that it has subject matter jurisdiction over a case;¹ and it further

¹ Meritcare Inc. v. St. Paul Mercury Ins. Co., 166 F.3d 214, 217 (3d Cir. 1999), overruled on other grounds by Exxon Mobil Corp. v. Allapattah Svcs., Inc., 545 U.S. 546 (2005); Carlsberg Resources Corp. v. Cambria Sav. & Loan Ass’n, 554 F.2d 1254, 1256-57 (3d Cir. 1977).

APPEARING that the Federal Rules of Civil Procedure require a complaint to contain “a short and plain statement of the grounds for the court’s jurisdiction;”² and it further

APPEARING that the Complaint asserts that there is federal subject matter jurisdiction over this action based on diversity of citizenship, pursuant to 28 U.S.C. § 1332(a); and it further

APPEARING that for diversity jurisdiction to exist under 28 U.S.C. § 1332(a)(1), there must be complete diversity, meaning all plaintiffs must be citizens of a different state or states than all defendants, and the amount in controversy must exceed \$75,000, exclusive of interest and costs;³ and it further

APPEARING that the Complaint fails to set forth the pertinent information needed to determine the citizenship of both Plaintiff and Defendant; and it further

APPEARING that the Complaint fails to state whether Plaintiff is a business entity organized as a corporation or organized in some other form; and it further

APPEARING that the citizenship of a corporation is both the state of incorporation and the state of its principal place of business;⁴ and it further

APPEARING that the Complaint does not detail the citizenship of the members of Defendant Galaforo, an LLC; and it further

APPEARING that the citizenship of a limited liability company is “determined by the citizenship of its members;”⁵ and it further

² Fed. R. Civ. P. 8(a)

³ 28 U.S.C. § 1332(a)(1); Strawbridge v. Curtiss, 3 Cranch 267, 2 L.Ed. 435 (1806) (holding that, for jurisdiction to attach under section 1332(a)(1), there must be complete diversity between all plaintiffs and defendants).

⁴ 28 U.S.C. § 1332(c)(1); Hertz Corp. v. Friend, 130 S.Ct. 1181 (2010).

⁵ Zambelli Fireworks Mfg. Co., Inc. v. Wood, 592 F.3d 412, 420 (3d Cir. 2010).

APPEARING that, given the Complaint's foregoing deficiencies in pleading the citizenship of the parties, the Court cannot determine whether there is complete diversity between Plaintiff and Defendant; and it further

APPEARING that the proponent of federal subject matter jurisdiction bears the burden of establishing that the Court has diversity jurisdiction;⁶ and it further

APPEARING that, for the reasons set forth above, Plaintiff has provided the Court with insufficient information to carry that burden; and it further

APPEARING that if it appears that this Court lacks subject matter jurisdiction over this case, the action must be dismissed;⁷ therefore,

IT IS on this 10th day of March, 2021, hereby

ORDERED that Plaintiff's motion for default judgment [ECF 8] is **DENIED** without prejudice, as subject matter jurisdiction has not yet been shown; and it further

ORDERED that Plaintiff shall show cause in writing before the undersigned by March 24, 2021 why this action should not be dismissed for lack of subject matter jurisdiction.

s/ Stanley R. Chesler
Stanley R. Chesler, U.S.D.J.

⁶ Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994); see also Wright & Miller, 13 Federal Practice & Procedure § 3522 (3d ed. 2013) (“[T]here is a presumption that a federal court lacks subject matter jurisdiction, and the party seeking to invoke federal jurisdiction must affirmatively allege the facts supporting it.”).

⁷ Fed. R. Civ. P. 12(h)(3).